

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re Ex Parte Application of

ELEMENT SIX TECHNOLOGIES LIMITED,

Applicant,

For an Order Pursuant to 28
U.S.C. § 1782

Case No.

EX PARTE APPLICATION

Applicant Element Six Technologies Limited (“Element Six”) hereby applies to the Court *ex parte* for an order of judicial assistance, pursuant to 28 U.S.C. § 1782, appointing a Commissioner of the Court with the power to issue subpoenas requiring Pure Grown Diamonds, Inc. (“PGD”) to produce documents and provide testimony for use in foreign patent infringement litigation pending in Singapore.

Element Six tried to ascertain this limited but critical discovery from the defendant in the Singapore court, Ila Technologies Pte. Ltd. (“Ila”). Ila argued that Element Six should seek the discovery from PGD, a corporate entity with the same corporate parent as Ila, in the United States. The Singapore court agreed that seeking the discovery directly from PGD in the United States would be a more direct and effective course of action.

Courts routinely grant the requested relief *ex parte*. See, e.g., *In re Application of Aldunate*, 3 F.3d 54 (2d Cir. 1993). This practice is not in contravention of Local Rule 6.1(d), which deals with motions, and respondents to a subpoena issued pursuant to a successful Section 1782 Application retain adequate procedural remedies to challenge the subpoena if they believe they have grounds to do so. The granting of Section 1782 petitions *ex parte* simply conserves judicial resources by ensuring that the Court does not have to entertain arguments regarding the

appropriateness of the relief on multiple occasions.

The grounds for this petition are set forth more fully in the accompanying Memorandum of Law in Support of Application for Judicial Assistance Pursuant to 28 U.S.C. § 1782, and the accompanying declarations and supporting exhibits.

Dated: September 7, 2018
New York, New York

Respectfully submitted,

PROSKAUER ROSE LLP

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ORDER GRANTING JUDICIAL ASSISTANCE PURSUANT TO 28 U.S.C. § 1782

THIS MATTER having been brought before the Court pursuant to 28 U.S.C. § 1782 by Element Six Technologies Limited through their attorneys Proskauer Rose LLP, and the Court having considered the Application papers, and all other submissions before it, and for good cause shown;

IT IS on this ____ day of _____ 2018,

ORDERED that the Application for Judicial Assistance Pursuant to 28 U.S.C. § 1782 be, and it hereby is, GRANTED; and it is further

ORDERED that Russell T. Gorkin, Esq. of Proskauer Rose LLP is hereby appointed Commissioner of the Court with the power to issue subpoenas to Pure Grown Diamonds, Inc. (“PGD”) to produce documents and provide testimony as described in Exhibit B to the Memorandum of Law in Support of Application for an Order Pursuant to 28 U.S.C. § 1782 dated September 7, 2018.

SO ORDERED.

UNITED STATES DISTRICT JUDGE